SANTA CLARA VALLEY WATER DISTRICT PERFORMANCE AUDIT

PERFORMANCE AUDIT OF THE LOWER SILVER CREEK FLOOD PROTECTION PROJECT CONSULTANT AGREEMENT WITH RMC (A3277G) AND THE AFFILIATED AMENDMENTS 1, 2 AND 3

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EXECUTIVE SUMMARY

PMA Consultants, LLC (PMA) has completed an independent performance audit of the Lower Silver Creek Flood Protection Project Consultant Agreement with RMC (A3277G) and the affiliated amendments 1, 2, and 3. The objectives of the audit were to:

1. Review allegations of Conflict of Interest, Fund Reallocation, and Firewall and determine:
    a. If a conflict existed between District employees and RMC
    b. Whether there was a disclosure of conflict
    c. If firewall processes were effective
2. Review of Financial Allegations and determine if:
    a. Invoices followed appropriate financial review
    b. Invoices followed appropriate approval process
    c. Invoices followed appropriate preparation and submittal processes
    d. Whether or not reallocation from one of the 20 watershed projects to the RMC contract took place, and if so, if firewall measures were appropriate
    e. RMC received payment for zero hours of work, or if RMC was directed to execute other work
    f. The District expended hours to perform work that RMC was paid for
3. Inquire whether the District Attorney (DA) launched an investigation, and if so, review that investigation to determine whether or not there was a bearing on audit scope items
4. Review sole sourcing, including appropriate justification
5. Conduct a Performance Review, to determine
    a. If the work performed by the consultant or under its direction was sufficient to meet the purposes specified in the agreement and that services were rendered in accordance with the scope of services identified in Appendix One of the Agreement
    b. If District Staff complied with policies and processes and if activities were conducted appropriately

In addition to the audit objectives noted above, contract scope also included reviewing best practices associated with consultant background checks and firewall processes, and providing recommendations for improvement to the District.

CONCLUSIONS

To complete this independent audit, PMA reviewed Santa Clara Valley Water District's (The District) processes and practices, consultant contract and amendments, and project and organizational documentation in order to develop a framework for objectivity of allegations and performance. Relevant standards and metrics from these documents were distilled into assessable and objective performance criteria. PMA conducted a detailed compliance review of available documentation and interviewed available key stakeholders and project team members in order to assess project team performance and compliance. Summary conclusions of our independent audit are stated below:

CONFLICT OF INTEREST / FIREWALL

C1. A conflict did exist between District Staff and RMC. The conflict was identified, and disclosed.

C2. There is no evidence of a firewall violation

C3. Conflict of interest firewall practices were effective

C4. Since the time of the RMC agreement, the District has improved its firewall policies and practice related to disclosing conflicts, and firewall. However, PMA has improvement recommendations for consideration

FINANCIAL REVIEW AND FUND REALLOCATION

C5. There is no evidence of involvement of, or influence by, any District employee with a conflict of interest, with fund reallocations from non-Lower Silver Creek projects to the Lower Silver Creek project.

C6. Several inter-project fund reallocations (i.e., inter task transfers, or ITT's) occurred during the Lower Silver Creek project. None of the ITT's appeared to be the result of malicious intent, but one ITT did not follow District procedure as no final approval documentation exists in the project file.

C7. While only 2 invoices were approved by someone (employees without a conflict including a Sr. Project Manager, and a Unit Manager) other than the designated Project Manager, there does not appear to have been an appropriate delegation of authority chain to appoint an alternate RMC invoice approver. Additionally, although the District was able to articulate a generally practiced review procedure, such procedures were not formally documented.

C8. RMC invoices followed the preparation and submittal requirements as outlined in the contract.

C9. There is no evidence of double billing by RMC, billing for work not performed, or the District expending hours to perform work that RMC was paid for.

C10. The audit did reveal some immaterial discrepancies during the review, noted in our detailed findings. Additionally, we have included recommendations for improvement in District billing and invoice review procedures to address these discrepancies.

DISTRICT ATTORNEY (DA) INVESTIGATION

C11. The DA reviewed the allegations, opened a formal investigation to assess the alleged violations of conflict of interest laws, ultimately decided not to pursue the case, and summarily closed the case without any final documentation. No further action is required.

SOLE SOURCING

C12. The District sole sourced the RMC agreement, and there was appropriate justification noted for the sole source

C13. There is no evidence of a District employee with a conflict of interest participating in, or influencing the decision for sole sourcing

PERFORMANCE REVIEW

C14. Work performed by RMC Water and Environment (RMC) or under its direction was sufficient to meet the purposes specified in agreement A3277G. However, there were areas of nonconformance associated with delivery and as related to the District QEMS, specifically related to project management and execution, and change management.

C15. Due to time being of the essence, services listed in the contract were purposefully broad to allow for agility associated with potential services needed; in consideration of scope being intentionally wide-ranging, services were rendered in accordance with the scope of services identified in Appendix One of the Agreement and District direction.

C16. District staff compliance with policy and process was inconsistent. This was predominantly associated with post award contract management, and specifically, change management and project document control. There were areas of nonconformance, and the potential for improvement in the District's Project Document Controls and Change Management practices and implementations. The District's Project Document Control (record keeping) related to this agreement was unorganized and at times ineffectual, particularly in consideration of project management handover. Change Management, though expected and implemented, was poorly documented and an ineffective communication tool. Project Document Control and Change Management are the key knowledge areas associated with noncompliance and potential improvement.

PMA also identified several areas of non-conformance and areas for improvement (relative to industry best practice) in areas such as project management and execution and performance evaluation and has provided recommendations associated with these findings.

INTRODUCTION AND APPROACH

PROJECT BACKGROUND

The Lower Silver Creek Flood Protection Project was identified in the 1986 Benefit Assessment Program and was enabled to protect the surrounding area by removing 3,800 parcels from the 1 percent floodplain and to improve stream habitat values. The Lake Cunningham Project was also necessary to provide 1% flood protection to areas along Lower Silver Creek. The Federal sponsor is the United States Department of Agriculture (USDA), through its Natural Resources Conservation Service (NRCS). The NRCS was the lead agency in the development of the original 1983 Watershed Plan and the 1988 Alternative Analysis Plan Update. In 2000, the Santa Clara Valley Water District (District) initiated the Coyote Watershed Program to accelerate work in the Watershed which included the Lower Silver Creek Project and the Lake Cunningham Project. Improvements for Lower Silver Creek Reaches 1-3 were constructed. Although project designs were nearly completed for Reaches 4-6, improvements to these reaches and to the Lake Cunningham facility were not constructed due to funding limitations, and were consequently deferred.

Due to the completeness of design (ranging from 90-100%), District staff identified Reaches 4-6 (the Project) as a "shovel ready" project eligible for federal funds. On April 16, 2009, the USDA Secretary Vilsack announced that the Lower Silver Creek project would receive $2 million in federal economic stimulus funds through the NRCS as part of the American Recovery and Reinvestment Act (ARRA) of 2009. The terms and conditions applicable to the District's award of the federal economic stimulus funds associated with Reaches 4-6 required the District to award the *first* contract for project construction no later than August 2009; a very tight timeline. As the District did not have the management and services staff available to support the Project, and since the short timeline was deemed critical, a sole-source procurement strategy utilizing consultant staffing associated with previous Reaches, was brought to the Board, and unanimously approved. The list of firms approved by the board for sole source consultant agreements (and in particular, RMC) were firms that previously performed all the work on the previous portions of the project so it was logical to ask them back. It was for practical and logical reasons as well as appropriate from an engineering liability standpoint to make sure the same firms stayed with their initial work product designing the projects years before. RMC had the requisite history and background on the LSC project so it was cost-effective to have them resume their role on the project. In June, 2009, RMC Water and Environment (RMC) was contracted and issued a notice-to-proceed for the Project.

To comply with the August 2009 deadline, the first contract awarded (allowing for access to federal stimulus funding) was the construction of Reach 6B Early Grading work, from Moss Point Drive to Cunningham Avenue. As a condition of receiving initial grant funding, SCVWD let a construction contract for the Early Grading work. It was the first phase prior to final design and construction of the preferred channel configuration.

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In order to receive an *additional* (roughly) $16 million of federal stimulus funding for the previously deferred Reaches 4-6A Project, the District was required to award the subsequent professional services contracts for project management, permitting, design and coordination during construction by August, 2010.

RMC WATER AND ENVIRONMENT – SCOPE OF SERVICES

Agreement No. A3277G and amendments between the District and RMC (See Appendix 4a) includes a detailed scope of services, including program management, planning, design management/coordination, environmental documentation, and construction support services that may be required to assist the District's Project Manager with rapidly finalizing design, obtaining regulatory permits, and constructing the improvements. The Scope of Work was allocated into the following tasks.

- Task 1 – Program Management
- Task 2 - Lower Silver Creek Reach 6B (Early Grading from Moss Point Drive to Cunningham Avenue)
- Task 3 – Lower Silver Creek Reaches 4, 5, and 6A Project (Interstate 680 to Moss Point Drive)
- Task 4 – Lower Silver Creek Reach 6B Project (Final Design from Moss Point Drive to Cunningham Avenue)
- Task 5 – Supplementary Services

AUDIT BACKGROUND

BACKGROUND

In October, 2015 the District Board took an action to refer an audit of the Project to the Board Audit Committee (BAC). During the March, 2016 meeting the BAC requested that staff prepare a scope and schedule for BAC review. Scope and schedule were developed, approved by the BAC and advertised as part of a Request for Proposals (RFP) for Independent Performance Audit Services. The District and the BAC evaluated proposals received, conducted interviews and selected PMA to proceed with the Audit in January, 2017. On 9/28/17 PMA presented its final draft performance audit report to the Board Audit Committee. PMA's scope of work was subsequently amended by District Board approval on 2/27/18 and expanded to include review of specific allegations and recommendations for District performance needing improvement.

LIMITATIONS

The performance audit focused on compliance with District processes and practices, whether the work performed met the requirements specified in the Lower Silver Creek Flood Protection Project Consultant Agreement with RMC (A3277G) and the affiliated amendments 1, 2 and 3, and Project and Organizational Documentation and interviews. The timeframe of the audit covered 2009 through 2014 which was commensurate with the agreement and three associated Amendments. Additionally, per

District direction the focus of the audit was on the prime consultant (RMC), and not its sub-consultants, as clarified in the correspondence from SCVWD to PMA dated March 2, 2017.

SCHEDULE

Project Start Date: 25JAN2017

Draft Report: 31JUL2017 / 27OCT2018

Project Amended Date: 27FEB2018

Final Report Issued: JAN2019

Project Close Date: DEC2018

ANALYSIS OF POTENTIAL THREAT TO INDEPENDENCE STATEMENT

In accordance with Generally Accepted Government Auditing Standards (GAGAS) requirements, PMA conducted an analysis to identify and ensure there were no threats to maintaining PMA's independence when conducting the Performance Audit. This included evaluating all audit and non-audit services having been or currently being provided to the Client.

Instance 1. PMA previously provided non-audit (advisory) services that suggested modifications to the Client's Division 0 and Division 1 specifications. As part of this audit, PMA was not reviewing the inclusion, implementation or compliance with those suggestions.

In this instance, the Client:

- assumes all management responsibilities;
- oversees the services, by designating an individual, preferably within senior management, who possess suitable skill, knowledge, or experience;
- evaluates the adequacy and results of the services performed; and
- accepts responsibility for the results of the services.

Based on PMA's Professional Judgment and GAGAS guidelines, there is no threat to PMA's ability to maintain its independence as part of this performance audit. The Client's legal counsel has concurred with this determination.

APPROACH

The District outlined several task areas associated with the audit, including:

- Task 1 – Project Management
- Task 2 – Conduct Project Kickoff Meeting
- Task 3 – Conduct Performance Audit
- Task 4 – Produce Preliminary Draft Audit Report
- Task 5 – Produce Final Draft Audit Report
- Task 6 – Produce and Present Final Audit Report
- Task 7 – Supplemental Services

The three primary activities associated with completing audit objectives included developing an objective platform on which to audit performance, reviewing existing documentation (including process and practice information, contract and amendments, and project and organizational documentation), and documenting key personnel testimony through in-person interviews.

SUPERVISION AND QUALITY CONTROL STATEMENT

PMA's assigned resources possess the required technical knowledge, competencies and professional judgment necessary to conduct the independent performance audit in accordance with GAGAS, the Client's operating and regulatory environment, and specialized subject matter, such as Project Controls and Construction Management of Flood Control Improvement programs and projects.

PMA Consultants LLC utilized its quality control policies and procedures and frequently communicated those policies and procedures to its personnel. All work performed for this audit was peer reviewed by staff whom are familiar with the scope of work, GAGAS requirements and whom possesses the technical knowledge, competencies and leadership necessary to ensure the proper resources, independence, professional judgment and product delivered for this audit.

GAGAS COMPLIANCE

PMA conducted this Performance Audit in accordance with generally accepted government auditing standards. These standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis of our findings and conclusion based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objectives.

PERFORMANCE AUDIT METHODOLOGY

In accordance with audit objectives and prior to field audit field work taking place, PMA first developed a presentation documenting approach and understanding of objectives and work required to complete those objectives.

Upon alignment of objectives and approach, PMA thoroughly reviewed the Consultant Agreement with RMC (A32277G), District process, practice, and procedure documentation provided by the District, and reviewed more than 5,500 items included in the District's project document control repository to gain an accurate understanding of the LSC program's internal control processes, regulatory requirements, funding and contractual compliance and reporting.

Subsequent to completing a review of this documentation, and in order to complete the performance component of the audit, PMA developed audit performance criteria (Appendix C), which served as a representative sample of appropriate practice, process, and contractual requirements. This audit criteria allowed for evaluation of evidence and understanding findings, recommendations, and conclusions included in the report. Elements of criteria and a finding consider condition, cause, and effect. Compliance was noted as 'full, partial, or none' and was summarized by key project management area, including:

- Project Management and Execution
- Project Risk Identification and Management
- Planning and Scheduling
- Cost Control
- Change Management
- Document Management and Control
- Project Quality
- Field Services

PERFORMANCE AUDIT PROCESS

To accomplish audit objectives, PMA:

- Developed a presentation of understanding and overall approach, and presented at a kickoff meeting
- Obtained and reviewed the consultant agreement and District process and procedure requirements
- Developed an objective compliance audit checklist predicated on the agreement, processes, and practices
- Provided a sample of the audit checklist and methodology for District review and approval
- Obtained and reviewed project specific and organizational documentation
- Interviewed key district and consultant personnel

Areas of Nonconformance Report (NCR) and Areas for Improvement (AFI) were identified in the criteria matrix based on partial or noncompliance with relevant practices or contractual obligations.

Audit field work including review of project specific documentation and key personnel interviews was conducted for base scope between March 2017 and July 2017, and for amended scope between June 2018 and September 2018. Relevant documents and interviews are summarized in Appendices A and B.

IDENTIFICATION OF SOURCES AND TYPE OF EVIDENCE

Based on the audit objectives, PMA believes that evidence was appropriate to address current audit objectives, but was limited in some areas.

Given the nature of the work performed by RMC and its subconsultants (consulting), as well as the passage of time and retirement of the project manager, we do not believe it would be possible to determine with 100% accuracy whether or not the hours billed by RMC and its sub consultants were reasonable and reflective of actual hours worked. That said, we did not find any evidence of impropriety during our examination and testing, nor did we discover any reason to believe such improprieties exist through our interviews with District and RMC personnel.

Due to a lack of District documentation, caused by internal control deficiencies, areas of nonconformance, and other program weaknesses, there was limited evidence associated with the performance portion of the audit (compliance with policy and process) which also contributed to the basis for audit findings. Evidence was provided and cross-checked with various sources. However, this became limited when reviewing the Client's internal Project Management and Change Control documentation.

PMA obtained Testimonial evidence under confidential conditions in which persons spoke freely; these conditions are generally more reliable than evidence obtained under circumstances in which the persons may be intimidated. PMA used this testimonial evidence to interpret or corroborate documentary or physical information. PMA evaluated the objectivity, credibility, and reliability of the testimonial evidence. The District provided a list of key persons to be interviewed. This included District and RMC staff employed at the time of the contract. Appendix A shows the list of staff and interview date.

PMA used its professional judgment to determine the sufficiency and appropriateness of evidence taken as a whole, and in reporting the results of the audit work.

The criteria developed to evaluate the evidence and its findings consider condition, cause, and effect. PMA also evaluated the evidence for significance, which is defined as the relative importance of a matter within the context in which it is being considered, including quantitative and qualitative factors. Such factors include the magnitude of the matter in relation to the subject matter of the audit, the nature and effect of the matter, the relevance of the matter, the needs and interests of an objective third party with knowledge of the relevant information, and the impact of the matter to the audited program or activity. Professional judgment assists auditors when evaluating the significance of matters within the context of the audit objectives. In the performance audit requirements, the term "significant" is comparable to the term "material" as used in the context of financial statement engagements.

FINDINGS AND RECOMMENDATIONS

PMA believes that the evidence obtained from audit, described in the audit checklist (Appendix C) and below, provides a reasonable basis for the audit findings at this time. The audit was performed with available information provided by both the District and RMC. PMA worked with both entities to seek and collect additional information, primarily in extensive databases and from the project team. All findings are documented herein.

By developing an audit checklist (Appendix C) that serves as a representative cross sampling of district processes, practices, and requirements, and subsequently auditing project documentation and obtaining testimony through interviews, PMA is objectively able to demonstrate our findings associated with the performance portion of the audit.

CONFLICT OF INTEREST / FIREWALL

The Consultant shall resolve allegations regarding potential conflict of interest. This includes reviewing Board of Directors' and Board Audit Committee's meeting minutes and Board of Directors' meeting videos conducted prior to the initial Agreement A3277G to determine if potential conflicts of interests were discussed. Review how this relates to firewall process in place in 2009. The Consultant will research best practices associated with background checks and provide recommendations to the District.

The Consultant shall resolve allegations regarding contract approval within a conflict of interest, and as related to A3277G, the Consultant shall review firewall processes that were in place in DEC2009 and determine if firewall processes were effective (review requirement for signatures in typical process, and absences of signature in firewall period). This includes comparing results to findings from the previous compliance and invoice audit.

AUDIT FINDINGS

F1. In the absence of documentation being available, PMA could not determine if a firewall policy or process existed in December 2009 (the time of contract award).

F2. Effective February 22, 2011, Melanie Richardson began serving in the position of the Deputy Operating Officer (DOO), Watershed Capital Division. Recognizing the new position and potential for conflict as disclosed on Form 700, District Counsel, at the request of the Chief Operating Officer (COO), issued a Conflict of Interest Advice memo on April 8, 2011. This memo confirmed that Melanie Richardson, in her new role as DOO, had the opportunity for a conflict of interest. The memo recommended four distinct guidelines to construct an ethical "firewall" to keep Melanie Richardson entirely separate from the business relationship RMC currently has, or may have in the future, with the District.

F3. Based on consistent testimony from all parties interviewed, the content of the April 8, 2011 memo was shared with certain individuals in District leadership and staff responsible for managing an RMC contract whom acted in accordance with the advice, and whom verbally shared conflict-related processes with employees, on an as-needed basis as advised by District Counsel. The memo does not appear to have been contemporaneously and formally migrated into District procedure (and provided to all employees) at the advice of District Counsel.

F4. PMA received and reviewed a firewall policy provided by District staff dated 6/5/18 to evaluate the current state of the firewall policy prior to recommending improvements. The firewall policy is more comprehensive and effectively written than previous versions. PMA has suggested a list of recommendations to the District to further improve the effectiveness of the policy.

F5. In the absence of a formal Conflict of Interest (COI) and Firewall policy, additional information was requested in order to demonstrate when and how the District implemented guidelines suggested in the 4/8/11 memo. Evidence of practice adoption included:

a. Video testimony of COO, Watersheds Division at the 10/27/15 and 12/8/15 Board Meetings wherein the following was noted:

i. Testimonial evidence of formal or informal communications which was corroborated by those interviewed.

ii. Melanie Richardson disclosed financial interest in annual Statement of Economic Interest Form 700.

iii. While responsible for two (2) Unit Mangers working on projects utilizing RMC contracts, other Deputy Operating Officers directly managed and provided performance reviews of these Unit Managers. Melanie Richardson provided performance review information on Unit Managers' mid-year and annual reviews on all other non-RMC matters and was not privy to comments provided by the DOO's. This was confirmed through testimony from District staff.

iv. At the 12/8/15 meeting, the District Board was informed by the Chief Operating Officer (Watersheds) that the management of all RMC contracts had been transferred to the District Administrative Operating Officer (AOO), who reports directly to her.

b. Completed, and dated Form 700 (2009 through 2015) from Melanie Richardson that verifies disclosure of potential COI.

c. Employee evaluations verified Melanie Richardson did not evaluate staff based on their performance on the LSC project.

d. Unanimous interview testimony concluding that Melanie Richardson excused herself whenever RMC was brought up during meetings and discussions.

F6. A previous outside legal fact finding was conducted. This third-party review found no evidence of firewall violation by Melanie Richardson or the District. Based on PMA's independent audit, we concur with its findings.

F7. Melanie Richardson's Form 700, Calendars Years 2009 through 2015, on file with the District show that the employee disclosed interest in RMC. Those files are available to District Staff, the Board and the public upon request.

F8. PMA cannot find any evidence of firewall violation by Melanie Richardson or the District, or evidence of bias.

F9. Because no evidence of violation was found, firewall guidelines were effective. Examples of documentation reviewed include:

a. The approval signature of all RMC invoices, noting all but two invoices were approved by the District Senior Project Manager. Invoice #12632, dated 6/9/11 for $21,038.20 was approved by another District Senior Project Manager on behalf of the Engineering Unit Manager (Coyote and Pajaro). Invoice #17363, dated 1/16/14 for $36,657.47 was approved by an Engineering Unit Manager (the Project Manager assigned to Lower Silver Creek after previous Senior Project Manager's retirement).

b. No presence of Melanie Richardson's name was found on any of the Lower Silver Creek documents reviewed in the course of the audit.

c. During the 12/8/15 Board Meeting Item 8.1, District Counsel summarized results of Outside-Legal fact finding, stating "No evidence of violation of firewall; no evidence of bias."

F10. PMA reviewed the Board meeting minutes and videos for the 4/28/09 Board meeting. There was no mention of Melanie Richardson, which seems appropriate, as she was the DAO at the time, and was not responsible for overseeing/managing this project or staff assigned to manage Agreement A3277G.

F11. Per the District Counsel memo dated 6/5/18, and subsequent testimony from multiple interviews, the firewall was put into place in Feb 2011 and has remained in full effect, as of the date of this report.

F12. Though not a common occurrence, review of recorded Board meetings and testimony provided by those interviewed corroborated that Melanie Richardson's conflict was discussed with the Board and was not kept from the Board. Amongst staff interviewed, the conflict was well understood.

AUDIT RECOMMENDATIONS

Defining and maintaining COI and firewall is a system of policies, procedures, re-occurring training and documentation to allow for effective implementation, advance notification and planning for firewall measures, annual auditing, and annual review for improvements. This is a best management approach using the "Plan-Do-Check-Act" (PDCA) cycle. It was made popular by W. Edwards Deming, who is considered by many to be the father of modern quality control.

There are many resources the District can consult to develop their COI and firewall policies and procedures, such as the California Fair Political Practices Commission; AICPA Audit Committee Toolkit: Government Organizations, 3rd Edition; the Non-Profit Risk Management Center or many other local and national government agencies.

PMA reviewed Conflict of Interest Statements for officials and employees, as well as researched specific language for "firewalls." We found that many entities had guidance language in their policies regarding conflicts of interest, and many did not publish specific language reading firewalls as they pertained to a specific instance. Agencies declined providing these documents citing confidentiality policies and attorney-client privilege.

PMA has reviewed the many documents and provides the following list of recommendations:

R1. COI policy should be included in the District employee handbook issued to and signed by each employee certifying they took the course, understand and agree not to violate the Act, and will report any potential COI's or violations to the District's Ethics & Equal Opportunity Program.

R2. The COI should reference relevant District policies and procedures. The COI policies should concisely reference applicable laws, employees Duty to Act in the Public Interest, acceptance of gifts, and include sections that define a COI, terminology/definitions, confidentiality statement, and procedures.

R3. The COI policy should provide guidance as to whether an employee can have a secondary job, the reporting requirements if allowed and the limitations.

R4. District should develop COI procedures that include re-occurring training and documentation to allow for effective implementation, annual auditing, annual review for improvements and reporting protocol to the District's Ethics & Equal Opportunity Program regarding potential violations.

R5. The District should leverage the District's work (counsel memos) to develop a procedure (vs internal memos) that includes guidance on notification, evaluation, testing and formulation firewall measures specific to the situation.

R6. It should state a procedure for reviewing Board member, committee members, employee and consultants Form 700's and direct all that may obtain positions where a COI may occur, to

immediately update their Form 700 and notify the District's Ethics & Equal Opportunity Program.

R7. The District should develop procedures to provide a framework for evaluating potential COI's prior to placing an existing or prospective employee in a position that would create a conflict.

R8. District should provide annual on-line training which should be conducted prior to having employees update their Form 700.

R9. Updated Form 700 forms should be submitted when employees are promoted or re-assigned to new positions.

FINANCIAL REVIEW AND FUND REALLOCATION

The Consultant shall review the process for invoice review and oversight and determine if invoices followed the appropriate submittal, review, and approval process. Furthermore, the consultant shall determine whether or not RMC double-billed the District or invoiced the District for work not performed, work performed on other projects, or work performed by District personnel.

The Consultant shall review the process, procedure, and criteria for reducing funds to another contract and determine whether or not reallocation from one of the 20 watershed projects to the RMC contract took place.

AUDIT FINDINGS

F13. Though District employees follow a consistent process when reviewing invoices, there is no formal guidance on components of an effective review. While each contract will have its unique circumstances, the District should develop general expectations for contract review.

F14. There does not appear to have been an appropriate delegation of authority chain to appoint an alternate RMC invoice approver. 2 of the 43 invoices (5%) were approved by someone other than the authorized approver as designated in the contract. While it is anticipated that the designated contract approver will not always be available, alternate approvers should be trained in the contract review process. Documentation should be retained to evidence delegation of authority in these cases. Such documentation could consist of either a formal form or informal e-mail.

F15. While several exceptions were noted through our substantive testing, none were material, and none appeared suspicious/indicative of fraudulent activity. Examples included:

a. 75% of District-approved invoices selected for testing contained hourly rates for personnel which did not tie to contract rates. The rates included those for employees holding the same or similar positions to those listed in the contract, employees with titles similar to those

listed in the contract, and hourly rates that differed from those listed in the contract. It should be noted that not all rate discrepancies were overcharges. There were 9 instances of rate discrepancies noted in the 12 invoices selected for testing, all but one of which were related to sub-consultant charges passed through by RMC. In total, these 9 discrepancies resulted in a net undercharge to the district of $711.75. Given the immateriality, we do not recommend further testing

b. One instance where backup documentation was not included for immaterial subcontractor charges ($62.50). This appeared to be an isolated instance.

c. 25% of invoices contained discrepancies between the task invoiced per RMC and the task worked per the sub-contractor (ex. sub-contractor invoice states time was worked on task 1 while RMC bills for task 3). This could be the result of differences in billing systems. As an example, a sub-contractor who is only working on one task may generate invoices to RMC which state "Task 1" referring to the only task assigned to the sub-contractor, even though it is Task 3 of the project. While there is room for improvement in the communication between RMC and their subcontractors, we have no reason to believe RMC misclassified sub-contractor billings into the wrong task.

d. Three of the sub-contractors did not specify which task they were billing for.

e. None of the RMC or sub-contractor invoices contained support for "other expenses," totaling $3,140 (out of $536K; 0.59%). While we generally recommend requiring contractors to provide support for all expenditures, the District may wish to perform a cost/benefit analysis prior to instituting such requirements, especially if out-of-pocket expenses incurred are expected to be minimal.

f. Several of the invoices examined (both RMC and sub-contractor invoices) did not specify the date range which the invoice covered, but rather included a "through [date]" format. While a reviewer can determine invoice date ranges based on the "through date" of previous and current invoices, we recommend a more conventional practice of specifying a date range.

F16. There is no evidence of double billing

a. Our invoice audit revealed no evidence of double billing

b. Those interviewed during the course of the audit, including current and previous project management, provided testimony starting that there was no double billing

c. RMC has provided a representation letter attesting to the accuracy of invoices submitted.

F17. While the District has an established procedure in place for the authorization of funds transfers between projects and between tasks within the same project (both of which require documented project manager approval, the former from both the receiving and relinquishing Project Managers), our examination indicates that the procedure related to transferring funds between tasks within the same project was not consistently followed with respect to finalizing the approval documentation.

a. A task transfer from tasks 2 and 4 to task 3 followed District procedure, and fit the criteria of District policy.

b. A task transfer from task 1 to task 3 did not explicitly follow District procedure

i. Inter task funds transfers are required to be approved by the Project Manager or designee. The transfer from task 1 to task 3 was discussed through email (RMC requested the transfer and the District acknowledged the request), but was not accompanied by a signed transfer form.

ii. District policy requires that a task be complete prior to transferring funds from that task. When the transfer from task 1 to task 3 took place, task 1 was not complete. While Task 1 was not complete at the time RMC transferred funds, only two invoices were issued subsequent to the transfer totaling $2,200. Additionally, the remaining budget upon contract termination for Task 1 according to RMC's records was $10,992. As such, the transfer of these funds between tasks had no project impact.

iii. None of the fund transfers examined appeared to be the result of malicious intent.

AUDIT RECOMMENDATIONS

INVOICING

R10. The District should develop general guidelines for consistent invoice review.

R11. The District should implement a guideline for Delegation of Authority

R12. The District should update the master list of employees and labor rates within the contract as this serves as a control against unsupported labor rates and inclusion of costs on a fixed price contract.

R13. If substitute or additional employees are allowable, then the contract should provide a generic employee title which will tie to the amount being invoiced.

R14. If rates are expected to change over the life of the contract, the contract should either specify the rate changes, or provide for an escalation clause.

R15. The District's invoice review process should include a component of correlating invoice rates to contractual rates.

R16. The District should require support documentation for all labor and materials charges, unless otherwise noted by contract.

R17. The District should ensure task level billings from subcontractors agree with that of the consolidated invoice from the prime contractor

R18. Accurate task level reporting should be a component of consistent invoice review.

R19. Specifying date ranges on invoices should be added to invoicing requirements, and should be a component of consistent invoice review.

SOLE SOURCING

The Consultant shall determine if the District sole-sourced the RMC agreement, and if so, determine if appropriate justification was noted for the sole-source

AUDIT FINDINGS

F18. The District did sole-source the Consultant Contracts to Complete the Design Documents for Construction of the Lower Silver Creek Flood Protection Project Reaches 4-6, #40264012. The proposed scope of Program Management under the Prime Consultant, RMC, was one of four contracts proposed to be sole sourced on the Lower Silver Creek Flood Protection Project, Reaches 4-6.

F19. During a 4/28/09 Board Meeting, the Board voted, and approved four sole source professional services contracts, including RMC #40264012.

F20. There were practical and logical reasons to sole-source the four professional services contracts

a. The four firms (including RMC) previously performed all the work on the preceding phases of the project

b. The original design firms were asked to continue with the construction phase, to be involved as the Engineer-of-Record, so that they could assist with design revisions during construction

c. Sole-sourcing to firms whom had previously worked on the Lower Silver Creek program helped to ensure that the tight deadline associated with ARRA funding was met, allowing for ARRA funding to be secured.

F21. The Conformed Copy of the Board Agenda Memo demonstrates that the request to sole source satisfied policy requirements, referenced appropriate Executive Limitations related to Procurement, and included justification for sole source.

SANTA CLARA COUNTY DISTRICT ATTORNEY INVESTIGATIONS

The Consultant shall inquire whether or not the District Attorney launched an investigation. If available, the Consultant shall review the investigation findings and determine if they have bearing on audit scope items.

AUDIT FINDINGS

F22. On 7/2/18, John Chase, Deputy District Attorney, responded confirming that "The District Attorney's Office did not open a formal investigation in 2015 into RMC Consultants' alleged billing the Santa Clara Valley Water District ("SCVWD") for work not performed. In 2013, we investigated alleged violations of conflict of interest laws by employee Melanie Richardson related to her community property interest in RMC Consulting, but ultimately did not file charges."

F23. Mr. Chase confirmed that "the civil grand jury operates independently of the District Attorney's Office, so I am unaware of any investigation they may have conducted in October 2015. Whether they investigated or not, I do not believe they produced a report. The civil grand jury information and past reports may be found at

- http:// www.scscourt.org /court_divisions/civil/cgj/grand_jury.shtml."

Further, Mr. Chase provided the following weblink to assist with our research:

- http://www.scscourt.org/court_divisions/civil/cgj/grand_jury_archive.shtml.

F24. PMA called and emailed the Grand Jury department and received no response. PMA checked the subject website and found that the Grand Jury did not file a report, which confirms they opted to not formally pursue and report on the same allegations.

PERFORMANCE REVIEW

Determine if the work performed by the consultant was sufficient to meet the purposes specified in the agreement and that services were rendered in accordance with the scope of services identified in Appendix One of the Agreement.

Determine if District Staff complied with policies and processes and if activities were conducted appropriately.

BACKGROUND

The work performed by RMC Water and Environment (RMC) was sufficient to meet the purposes specified in the agreement, however there were areas of nonconformance associated with delivery and as related to the District QEMS. These areas of nonconformance are detailed in the findings below.

Due to time being of the essence, services listed in the contract were purposefully broad to allow for agility associated with potential services needed; in consideration of scope being intentionally wide-ranging, services were rendered in accordance with the scope of services identified in Appendix One of the Agreement *and* District direction.

As noted in Project Background, the completeness of Reaches 4-6 design (ranging from 90-100%) made Lower Silver Creek "shovel ready" and a viable candidate for federal funding eligibility. On April 16, 2009, the USDA Secretary Vilsack announced that the Lower Silver Creek project would in fact receive $2 million in federal economic stimulus funds through the NRCS as part of the American Recovery and Reinvestment Act (ARRA) of 2009. The terms and conditions applicable to the District's award of the federal economic stimulus funds associated with Reaches 4-6 required the District to award the first contract for project construction no later than August 2009.

This already tight four-month duration was exacerbated by the fact that the District did not have the management and services staff available to support the LSC projects. Time was of the essence. In order to minimize risk (associated with obtaining federal funding under the schedule requirements), the District made a decision to use consultant staffing associated with previous LSC Reaches; a known commodity without a learning curve. In June, 2009, RMC Water and Environment (RMC) was contracted and issued a notice-to-proceed for the Project.

With time being of the essence (due to the time requirements associated with obtaining federal stimulus funding) and the uncertainty of the totality of federal funding, two undocumented, but reasonable project objectives that were corroborated during interview testimony include:

- Obtain as much federal funding as possible
- Optimize use of federal funding by executing as much work as possible with the available funds

The uncertainty associated with availability of future funding combined with time being of the essence (in order to obtain funding), necessitated the District's creation of a wide breadth of scope which would be executed under District direction, allowing for rapid response to changing needs in order to optimize

the use of federal funding. The wide breadth of consultant scope, combined with the uncertainty of funding limits, in turn created the expectation of, and allowance for contractual change i.e., "the parties intend to amend this Agreement to add services for calendar year 2010 to accomplish completion of the Projects."[1]

District staff compliance with policy and process was inconsistent. This was predominantly associated with post award contact management, and specifically, change management and project document control. There were areas of nonconformance, and the potential for improvement in the District's Project Document Controls and Change Management practices and implementations. The District's Project Document Control (record keeping) related to this agreement was unorganized and at times ineffectual, particularly in consideration of project management handover. Change Management, though expected and implemented, was poorly documented and an ineffective communication tool. Project Document Control and Change Management are the key knowledge areas associated with noncompliance and potential improvement.

AUDIT FINDINGS

Performance findings by subject area, associated with areas for improvement and nonconformance are detailed below. Findings are commensurate with the scope of work on internal control and any deficiencies in internal control that are significant within the context of the audit objectives are based upon the audit work performed.

CHANGE MANAGEMENT

F25. Change Management Practice was not followed strictly, and amendments were not documented well.

a. District QEMS W75101 (Change Management Practice) provides instructions to project team members on how to assess, communicate, and incorporate changes in scope, cost or schedule of a project. The intent of the instructions is to ensure that project staff analyzes and clearly communicates project changes and implications of the changes, appropriately.

b. QEMS W75101 requires the project team to "document the issues and decisions."[2] Due to the time requirements associated with obtaining federal funding, and uncertainty with the future of the project, change throughout the project was anticipated. The expectation for the occurrence of change was noted in the contract, as evidenced by the initial contract:

[1] A2377G Executed Agreement
[2] QEMS W75101

Provided Consultant performs the Scope of Services to the satisfaction of the District, the parties intend to amend this Agreement to add services for calendar year 2010 to accomplish completion of the Projects

c. Despite this anticipation, however, amendments were not well documented. Amendments were submitted and approved but amendments between RMC and the District were submitted at the end of each calendar year, rather than immediately following the identification of change. Further, amendments appear to have been a monetary extension of ongoing, directed services, rather than a realignment of scope.

d. As an example, and as would be expected in a program management contract, RMC's original contractual scope of work included program management reporting. In January 2011, RMC was directed by the District Project Manager to subside program management reporting, in an effort to retain funding for CH2M. Though direction was clearly articulated in an email,[3] and the direction was followed (project reports subsided), subsequent amendments did not reduce the scope commensurate with this direction.

e. There was an amendment practice in place. Amendments were submitted and approved. Scope-of-work in amendment documentation was not updated commensurate with expectation and understanding of services going forward. Project Work Plans were not updated according to practice

f. Board Governance policies indicate that the CEO was not entitled to make a single purchase for consultant service contracts in excess of $100,000 without authorization from the Board. Verification of authorization is documented in the amendments and in the Conformed Copy of Board Agenda Meeting (4-28-09). Because of the ambiguity, the Board Resolution should have clearly identified the CEO's authority to amend the contract, as provided by the Board, with respect to scope, budget and schedule, especially given the circumstances of this specific situation.

g. Amendments and claims were tracked in a potential change log (provided post interview). However, the amendments were not detailed in accordance with understanding of services going forward (i.e. they seemed to be an extension of services, rather than a clear documentation of the directed scope).

h. According to the agreement, funding from completed tasks can be moved to future tasks; however, funding associated with incomplete (or future) tasks cannot be transferred to current tasks. Task 4 budget was transferred to task 3 (inter transfer 11/13/12), and from task 1 to task 3 (no documentation backup, and task 1 not complete). The contract, though Not-To-Exceed (NTE) by task, was seemingly treated as Time-and-Material (T&M) holistically.

[3] Monthly report email, subject "Monthly report" sent by Senior Project Manager on January 5, 2011

i. QEMS W75101 requires that the project team "determine Impacts to project scope, schedule, and cost." [4]

   i. There is no evidence to support that impacts of all change, or that alternatives to address changes were determined. Using the example (directed change of reporting) above, the impact of reduced visibility into the project, in particular from a documentation standpoint, should have been noted in respective amendments per District practice.

j. QEMS W75101 requires the project team "Revise [the] Work Plan" [5]

   i. Because impact and alternatives of change were not assessed, project work plans were not revised to account for risks of alternative plans.

k. Task inter-transfer contractual practices were not followed appropriately

   i. A3277G Executed Agreement states that "Unused budget from a completed task may be reallocated to a later task upon written authorization from the District, provided that the total NET amount is not exceeded. However, transferring of budget from future tasks to current tasks will not be permitted."[6] According to the agreement, funding from completed tasks can be moved to future tasks however, funding associated with incomplete (or future) tasks cannot be transferred to current tasks.

   ii. Task 1 budget was transferred to task 3

      1. Though an email exchange exists referencing this ITT, the email is not specific and there is no formal documentation backup).

      2. Task 1 was not complete at the time of transfer.

      3. The only potential stop-gate for ensuring appropriate use and implementation of inter task fee transfer seems to have been the District project manager. An error in implementation, misunderstanding of process intent, or a lack of project management training could create similar scenarios in other future projects.

DOCUMENT CONTROL

F26. Document management practice was not consistently followed, and document management was unorganized and ineffectual.

[4] QEMS W75101
[5] QEMS W75101
[6] A3277G Executed Agreement

a. District QEMS W42302 provides guidelines and instruction to establish a standard file management system that provides a naming convention and organizational structure for the creation, maintenance and retention of project files, and ensures that files are created, maintained and archived in a consistent manner. One intent of an organized filing structure and its' controlled contents is to provide quality records, or documented evidence that processes were executed according to quality requirements.

b. RMC's files were set up according to document management hierarchy found in CWP LSC Filing Structure; District files were setup at a high-level hierarchy. Hierarchies do not match (varying levels of detail and organization). District structure unorganized and missing several sub-class folders such as monthly reporting.

c. District project document control system was used for a portion of the project, but not all files were found in District system. Examples include copies of all amendments and backup, and monthly reports. Testimony revealed that the Documentation Administrator left and was not replaced.

d. "Email is a delivery system not a document. Emails that contain significant information should be printed and filed with other correspondence."[7] An example of District nonconformance includes direction (scope change) issued through email and not stored in project correspondence. Though evidence of this direction was provided through RMC's project document control, no evidence was obtained through the District Project Document Control files. This direction should have been issued as a PDF (or similar) and filed with project correspondence in the District's file structure.

e. "Create a 'Project File Checklist' [8] for the current phase of the project. Using table 1 as a guideline identify documents that will be developed in the current phase of the project and develop a customized Project File Checklist for your project. This list may be modified as additional documents are identified." The District file structure was not setup commensurate with the scope of the overall program. Key subclass folders were missing (Project Control under the Project Management Classification, for example).

f. Additionally, several key requested documents were not provided or found in the District project document control system (but were provided via RMC's document control). As an example, key emails and monthly reports and meeting minutes, though transmitted (as evidenced by RMC project document control) to the District, were not stored in the Districts project document control project repository.

g. RMC's project document control followed their proposed plan and structure, and was in line with industry standard. RMC was able to produce a majority of requested documents. The District's project document control was unorganized and was missing a majority of requested project management documents.

[7] QEMS W42302
[8] QEMS W42302

h. "Reconcile construction files kept by engineering or project management units prior to archiving; prepare a file transmittal form for each box."[9] No evidence of the transmittal form or archival process was provided.

PROJECT MANAGEMENT AND EXECUTION

F27. Project Work Plan practice was not followed appropriately.

a. A Project Work Plan is a written plan that identifies processes, systems, and techniques to effectively implement and control a specific phase of a capital project. From a responsibility standpoint, the Senior Project Manager is responsible for the development, implementation, and changes of a Project Work Plan. Further, the Project Work Plan is to be revised with documented changes as conditions warrant, and distributed to all team members[10].

b. Though scope, strategy, and resources were modified several times over the term of the agreement with RMC, design and construction project work plans were not updated based on scope, cost, or schedule modifications (a requirement of QEMS). Because project work plans were not updated accordingly, there was no formal documentation capturing modifications in strategy and program implementation resulting in a loss of history on the program and a potential vulnerability in team understanding.

c. The only potential stop-gap for ensuring appropriate updates of Project Work Plans are Project Management diligence, and DOO oversight (requests at the time of amendments, etc.). An error in implementation, misunderstanding of process intent, or a lack of project management training could create similar scenarios in other future projects.

F28. Monthly reports were not reassigned when removed from the RMC's contractual scope of work (scope).

a. Progress reports and meeting minutes were included in RMC's contractual scope. Both of these activities occurred during the initial contract period. The District, in order to preserve funding for construction management personnel (executed via subcontract with CH2M), directed RMC to stop issuing monthly reports.[11] Monthly reports were not subsequently reassigned to another consultant, or to the District, creating a reporting void. The impact of this lack of reporting was a reduced historical visibility into the program, and a loss of knowledge during project management transition and handover. Further, this change in scope should have been handled in an amendment via the approved change management practice (as noted in change management section.

[9] QEMS W42302
[10] QEMS W75102rG
[11] Monthly report email, subject "Monthly report" sent by District Senior Project Manager on January 5, 2011

PROJECT RISK IDENTIFICATION AND MANAGEMENT, PLANNING AND SCHEDULING, COST CONTROL, AND PROJECT QUALITY

F29. Schedule updates and reviews were discontinued, as directed by SCVWD's Project Manager.

a. Schedules and subsequent updates are required to demonstrate planned progress, sequence of operation, and actual progress allowing for evaluation of progress variance.

Per the Executed Agreement, RMC was to use schedule management programs to monitor progress on Program activities, and to provide early identification of issues associated with schedule compliance. Schedule updates were to be provided monthly. Schedule updates and documented reviews subsided based on District direction to cease reporting, and the responsibility was not reassigned. It is not clear how project progress was assessed against Project Work Plans subsequent to the decision to subside reporting.[12]

AUDIT RECOMMENDATIONS

CHANGE MANAGEMENT

R20. Ensure project management training is in place, allowing for inter-task transfer process intent to be better understood

DOCUMENT CONTROL

R21. Modify existing project document control practice (and/or implementation of practice) to be less autonomous, in line with industry standard.

R22. There is currently no explicit process or direction for interface of project document control systems between consultant and the District. Recommend implementing a detailed practice for project document control interface between District and Consultant. Though the Project Work Plan could serve as a platform for a description of this interaction, a framework for its use should be provided.

PROJECT MANAGEMENT AND EXECUTION

R23. There is no current practice to address project management (and key personnel) turnover. QEMS discusses transition between phases, but does not require transition reporting between key personnel i.e. there is no formal practice for project management turnover. The project management position was transitioned in October 2013, near the end of the RMC contract; there is no evidence of a formal project management transition plan, or documentation of a

[12] Executed Agreement and QEMS Q751D01

transition meeting. Though lack of transition practice is a risk in and of itself, a lack of attention to project document control and change management practice exacerbates this risk, as the history of the project is not well documented. Recommend implementing a project management and key personnel transition/turnover practice including tools and templates, and roles and responsibilities.

R24. There is no current practice for project performance or compliance audit. Performance evaluation is not currently a requirement of QEMS and there are no systems or processes in place to support implementation of performance or compliance evaluation. The impact of the lack of performance evaluation increases the risk of District and consultant noncompliance and poor performance. Recommend developing and implementing process compliance audit requirements at key stages of project execution including processes, tools, and roles and responsibilities. Of note and predicated on industry best practice, audit should be implemented during project mobilization (early in the project) to allow for course correction if necessary.

PROJECT RISK IDENTIFICATION AND MANAGEMENT, PLANNING AND SCHEDULING, COST CONTROL, AND PROJECT QUALITY

R25. Risk Management is not a requirement of QEMS practices; rather it is included as an optional section within the Project Work Plan practice[13]. Project Risk Management is a well-accepted core project management knowledge area, and industry best practice. The impact of not identifying and documenting risks greatly increases the likelihood of project budget and schedule overruns. Recommend implementing a risk management procedure.

R26. Per the Executed Agreement, providing progress status reports is a requirement of invoice submittal. However, the demonstration of progress basis (either in a Project Work Plan or through the invoicing process) is not required. The impact of not requiring a demonstration of progress basis could in some cases lead to over-invoicing and ensuing over-payment. Recommend implementing a defined procedure for earned value / progress measurement.

R27. Though some objectives are formalized in the Project Work Plan, some other objectives articulated in interviews (securing federal funding and optimizing use of federal funding) were not formally recorded either directly as objectives, or as project constraints or assumptions. Further, there is no current process for recording or documented District expectations, or satisfaction with consultant performance and methodologies. The impact of not formally recording expectations and satisfaction reduces the ability to continually improve, both from the standpoint of District procurement and consultant performance. Recommend reviewing the need for an expectation and satisfaction procedure. Practice should address objectives, requirements, process, and reporting as well as roles and responsibilities, tools, and templates.

[13] QEMS W75102

SUMMARY OF THE VIEWS OF RESPONSIBLE OFFICIALS

Providing a draft report with findings for review and comment by responsible officials of the audited entity and others helps the auditors develop a report that is fair, complete, and objective. Including the views of responsible officials results in a report that presents not only the auditors' findings, conclusions, and recommendations, but also the perspectives of the responsible officials of the audited entity and the corrective actions they plan to take. Obtaining the comments in writing is preferred, but oral comments are acceptable.

PMA reviewed District comments and the District's Management Response, and as requested by the Board Audit Committee, has provided a response to the District's Management Response.

APPENDICES

The appendices include the following items.

A. List of interviews

B. Key documents

C. Performance Audit Report

Appendix A - List of Interviews

Employee	Associated Department / Role(s)
Lyndel Melton	Principal
Steve Bui	Project Manager (Senior Civil Engineer, Principal)
Julie O'Connor	Senior Project Accountant
Katherine Oven	Deputy Operating Officer (Water Utility Capital Division) Deputy Operating Officer, Watersheds Capital Projects Division
Leslie Orta	Senior Assistant District Counsel
Ted Ibarra	Assistant/Associate Civil Engineers (Coyote Watershed – Lower Silver Creek)
Roger Narsim	Capital Engineering Unit Manager (Coyote Watershed – Lower Silver Creek)
Stephen Ferranti	Capital Engineering Unit Manager (Coyote Watershed – Lower Silver Creek)
Mark Klemencic	(Retired) Chief Operating Officer (Watersheds)
Guy Canha	Accountant II
Karen Akiyama	Project Coordinator
Mike Heller	Management Analyst II
Anne Noriega	Ethics/Conflict of Interest Program Administrator
Richard Nguyen	Management Analyst II
Tim Bramer	Construction Manager (Construction Services Unit)
David Seanez	Chief Construction Inspector (Construction Services Unit)
Martin Rivera	Resident Construction Inspector (Construction Services Unit)
Norma Camacho	Chief Operating Officer (Watersheds) Chief Executive Officer
Brian Hopper	Senior Assistant District Counsel
Melanie Richardson	Deputy Officer (Corporate Business Services) Deputy Administrative Officer (Procurement and Operational Services) Deputy Operating Officer (Watersheds Design and Construction) Chief Operating Officer (Watersheds)

Appendix B - List of Key Documents

Reference	Description
A3277G and Amendments	Agreement No. A3277G and Amendments 1-3, between SCVWD and RMC
RMC Invoices	43 RMC invoices issues for the Lower Silver Creek work (12 of which were selected for detailed testing)
RMC Payment History	RMC payment history spreadsheet (Maintained by the District's Accounts Payable group)
District Accounts Payable	Payments history file of all RMC payments, obtained directly from the District's Accounts Payable system
RMC Deltek Transfers Report	Report from RMC's Deltek project accounting system, showing all transfers into and out of the Lower Silver Creek project (used to ensure additional costs were not added to the project subsequent to official employee time entry)
RMC Deltek Project Cost Report	Report from RMC's Deltek project accounting system, summarizing all project costs (used to ensure the District was not overbilled)
Representation Letter	Representation letter from RMC (now Woodard & Curran), stating there was no overbilling or billing for work not performed and that representations to the PMA team were truthful and accurate.
ITT Form	Inter task transfer documentation
QEMS W75102	Create Work Plan Practice
QEMS W75101	Change Management Practice
QEMS W42302	District File Instructions for Capital Projects
QEMS Q751D01	Capital Project Delivery
Executive Limitations	Executive Limitation Policies
4/8/11 Legal Memo	Memo to Operations (initial firewall policy)
6/5/18 Legal Memo	Revised firewall policy
Process Audit Final Report	2015 Consultant Contracts Management Process Audit Final Report
Intake Memo	7/17/15 hotline intake memo (summarizing the details of the hotline complaint as it related to the RMC/Lower Silver Creek work)
Fact Finding Report	11/30/15 Hanson Bridgett fact finding report on the investigation of RMC/Lower Silver Creek allegations
Transfer Emails	9/22/15 e-mail string discussing inter-task budget transfers
4/28/09 Board Meeting Video	Video of 4/28/09 board meeting where sole source to RMC was approved
10/27/15 Board Meeting Video	Video of 10/27/15 board meeting where Lower Silver Creek allegations were addressed by District staff
12/8/15 Board Meeting Video	Video of 12/8/15 board meeting where Hansen Bridgett Fact Finding was presented, and COO discussed updates to firewall

Email Direction	Email directing RMC to stop preparing and issuing monthly reports
BAO Interpretations	BAO Interpretations of the Board's Governance Policies
Sole Source CEO approval	Conformed Copy Board Agenda Memo dated 04/28/2009. Subject: Sole Source Consultant Contracts to Complete the Design Documents for Construction of Lower Silver Creek Flood Protection Reaches 4-6, #40264012, San Jose
Approval Authority	Approval authority for consultant services contracts
Procurement Procedure	Procurement of consulting services procedure
Payment Procedure	"Payments for goods and services" procedure
Financial Services Document	"Financial services-General accounting unit" document
General Accounting Policies and Procedures	General Accounting Policies and Procedures
Conflict Documents	• California Fair Political Practices Commission • City and County of San Francisco Employee Handbook dated Jan 2012 • San Mateo County, Chapter 2.20 - CONFLICT OF INTEREST CODE • County of Santa Clara Conflict of Interest Code • Palo Alto Resolution No. 9471 • Denver Water Employee policy 2-12. EMPLOYEE CODE OF ETHICS • AWWA Governance Statement - COI •
Forms 700	Melanie Richardson's Form 700, Calendars Years 2009 through 2015, on file with the District
Employee Evaluations	District employee evaluations
Superior Court of California, Civil Grand Jury	http://www.scscourt.org/court_divisions/civil/cgj/grand_jury.shtml http://www.scscourt.org/court_divisions/civil/cgj/grand_jury_archive.shtml
Deputy District Attorney Correspondence	7/2/18 email with John Chase, Santa Clara County Deputy District Attorney
Budget Adjustment Form	Lower Silver Creek Budget Adjustment Form
Design Phase Work Plan	Lower Silver Creek Reaches 4 & 5, and 6 Flood Protection Project Design Phase Work Plan. Dated 6/1/10
Construction Phase Work Plan	Lower Silver Creek Reaches 4-6A Flood Protection Project Construction Phase Work Plan. Dated 8/11/10
CM10088	Construction Manual
Organizational Charts	District Organization Charts 2009-2018

Client: SCVWD
Project: LSC Perf. Audit
PMA Project # 04078
Audit Date MAY17-OCT2018

Lead Auditor: Mike Brown
Auditor: John Mahoney
Auditor: John Olenberger

0	Non-Compliance
1	Partial Compliance
2	Full Compliance
N/A	
NCR	Non Compliance Report
AFI	Area for Improvement

PMA Consultants Est. 1971

Item #	Knowledge Area	Reference	Audit Item	Team Score	Auditor Notes	NCR AFI
1	Project Management and Execution	Const. Manual CM1088, Rev B, Section 2	Has written authorization been received from SCVWD prior to commencing work?	2	27-007 confirmed NTP on 6/18/09	
2	Project Management and Execution	Industry	Has the PM reviewed and signed the contract or release document prior to SCVWD signature?	2	Agreement A3277G signed by SCVWD and RMC	
3	Project Management and Execution	Industry	Was a Project Mobilization Plan, or Initiation Checklist completed?	NA	not contractually required; industry best practice suggests using a mobilization checlist as well as early audit in order to allow for course correction	AFI
4	Project Management and Execution	Const. Manual CM1088, Rev B, Section 4	Were the appropriate insurance certificates been received and issued to SCVWD?	2	COI presented (10/17/08)	
5	Project Management and Execution	Const. Manual CM1088, Rev B, Section 4	Was a Kick-Off Meeting held with required attendees?	2	Meeting minutes confirm KO held 6/23/2009	
6	Project Management and Execution	QEMS W75102rG	Was a Project Management Plan issued in the level of detail required? Did the context of the plan match the actual execution of job? Was it updated as needed?	1	reviewed design and construction phase project work plans. Not all project objectives were captured (i.e. federal funding). Plan should have been updated when scope and/or schedule/budget changed	NCR
7	Project Management and Execution	Const. Manual CM1088, Rev B, Section 4	Was the Project Execution Plan reviewed and approved by the SCVWD PM?	1	formally accepted copy and construction phase plans (K. Oven and A. Gurevich); plans should have been updated upon contractual or strategy changes and amendments	
8	Project Management and Execution	Industry	Was the Basis of Design completed (including performance criteria, design assumptions, listing of SCVWD documents, and applicable standards)?	2	BOD completed and transmitted JAN2010	
9	Project Management and Execution	Const. Manual CM1088, Rev B, Section 4	Were weekly project meetings held, and documented with minutes?	1	bi-weekly through initial contracting period. Agenda and minutes reviewed. Meetings with RMC were discontinued at same time as monthly reports	
10	Project Management and Execution	Const. Manual CM1088, Rev B, Section 6	Were all meetings or telephone conversations (with decisions made or significant data transferred) documented on a timely basis?	2	decisions documented in minutes of bi-weekly program meetings. Transmittals provided.	
11	Project Management and Execution	Const. Manual CM1088, Rev B, Section 6	Was an Action Item list implemented, and reviewed weekly?	2	action items covered in bi-weekly progress	

Client: SCVWD
Project: LSC Perf. Audit
PMA Project # 04078
Audit Date MAY17-OCT2018

Lead Auditor: Mike Brown
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Auditor: John Olenberger

0	Non-Compliance
1	Partial Compliance
2	Full Compliance
N/A	
NCR	Non Compliance Report
AFI	Area for Improvement

PMA Consultants Est. 1971

Item #	Knowledge Area	Reference	Audit Item	Team Score	Auditor Notes	NCR AFI
12	Project Management and Execution	Executed Agreement A3277G, App 1	Were Progress Reports issued monthly to SCVWD?	1	progress reports maintained JUN09-SEP10, and transmitted to SCVWD. District directed RMC to stop issuing progress reports in order to reserve funding for RMC's subconsultant services. Monthly reports were not subsequently provided by others	AFI
13	Project Management and Execution	Const. Manual CM1088, Rev B, Section 5	Did consultant adhere to the submittal process required by the District?	2	a submittal "who gets what" document created to organize submittals; formal submittals transmitted for BOD, 90%, 95%, and 100%.	
14	Project Management and Execution	Industry	Did consultant adhere to the RFI process required by the District	2	RFI Log provided post-interview, and verified for inclusions	
15	Project Management and Execution	Industry	Did the District answer RFIs in a timely manner?	2	no perceived issues from RMC or SCVWD standpoint; date received to date returned to consultant generally wihtin acceptable limits (less than one week)	
16	Project Management and Execution	Const. Manual CM1088, Rev B, Section 10	Was the project closeout report complete and distributed?	2	final invoice and associated documentation completed per CM1088	
17	Project Risk Identification and Management	QEMS W75102rH	Was a Project Risk and Mitigation Plan developed?	1	developed as part of Project Work Plan (above and beyond minimum requirements), however a key project risk and associated mitigation should have been identified for use of funding and funding optimization, to coincide with the objective of optimizing federal funding	AFI
18	Project Risk Identification and Management	QEMS W75102rH	Were mitigation plans or action items assigned in the action item list?	2	action items assigned to indviduals (bi-weekly meeting minutes)	
20	Planning and Scheduling	Const. Manual CM1088, Rev B, Section 6	Was the baseline schedule developed with appropriate stakeholder input?	2	Interactive process used as documented through meeting minutes / attendance	
21	Planning and Scheduling	Const. Manual CM1088, Rev B, Section 6	Was the baseline schedule reviewed and accepted/approved by the PM?	2	Approval of schedule implied through approval of Project Work Plan	
22	Planning and Scheduling	Executed Agreement A3277G / Q751D1	Was the schedule reviewed monthly with the project team and approved by the SCVWD PM?	1	as part of monthly report, until monthly report discontinued	
23	Planning and Scheduling	Const. Manual CM1088, Rev B, Section 7	Were the schedules resource loaded?	2	Resources managed via alternate system (Deltek); due to small nature of RMC scope when compared to consultant, this was sufficient	

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Lead Auditor: Mike Brown
Auditor: John Mahoney
Auditor: John Olenberger

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1	Partial Compliance
2	Full Compliance
N/A	
NCR	Non Compliance Report
AFI	Area for Improvement

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Item #	Knowledge Area	Reference	Audit Item	Team Score	Auditor Notes	NCR AFI
24	Planning and Scheduling	Executed Agreement A3277G/ Q751D1	Were schedules updated at least once per month?	1	as part of monthly report, until monthly report discontinued	
25	Planning and Scheduling	Executed Agreement A3277G/ Q751D1	Were schedules updated to reflect approved amendments?	2	baseline included with approved project work plan. RMC documents provide regulary updates; no updates found in District documetnation. Schedule was updated to include amendments (design to construction in subsequent years)	
26	Cost Control	Q751D1	Were internal cost reports issued monthly with appropriate content, and as planned in the project controls plan?	2	in monthly reports.	
27	Cost Control	Const. Manual CM1088, Rev B, Section 7	was progress and performance measurement included in the monthly report, and reviewed with the SCVWD PM?	2	included in monthly progress reports	
28	Cost Control	Const. Manual CM1088, Rev B, Section 7 Executed Agreement A3277G	Were earned hours and productivity determined at least monthly for all functions/crafts during Detailed Engineering and Construction?	1	progress reported for design in monthly reports. Basis of Earned Value Methodology not confirmed	
29	Cost Control	Const. Manual CM1088, Rev B, Section 7	Is a progress measurement system in place to determine cost and schedule progress and performance?	2	progress reported for design in monthly reports.	
30	Change Management	Executed Agreement A3277G	Was a retainage held back from monthly progress payments until approved to release?	1	per invoices; retention percentage decreased over time; reasoning not documented but allowed per contract	
31	Change Management	QEMS W75101 Const. Manual CM1088, Rev B, Section 7	Was a amendment practice in place, implemented, and followed?	0	amendment practice was in place. Amendments were submitted and approved. Scope-of-work in amendment documentation was not updated commensurate with expectation and understanding of services going forward. Project Work Plans were not updated according to practice guidelines	NCR
32	Change Management	Const. Manual CM1088, Rev B, Section 7	Did the SCVWD PM approve amendments to the work and order of magnitude price prior to proceeding?	2	PM approved amendments and routed for CEO approval	

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33	Change Management	QEMS W75101 Const. Manual CM1088, Rev B, Section 7 BAO Interpretations (EL5)	Were formal amendments issued per guidelines?	1	CEO approved amendments. According to signature page of signed agreement, Board Governance polices were invoked related to change management. Board Governance policies indicate that the CEO was not entitled to make a single purchase for consultant service contracts in excess of $100,000 without authorization from the Board. Verification of authorization documented in amendments and in Conformed Copy of Board Agenda Meeting (4-28-09). Definition around "amend" should have been more clear.	NCR
34	Change Management	Const. Manual CM1088, Rev B, Section 7	Were amendments tracked in a change log?	1	amendments and claims tracked in potential change log (provided post interview). However, amendments not detailed in accordance with understanding of services going forward	NCR
35	Change Management	Const. Manual CM1088, Rev B, Section 11	Were Claims managed in accordance with Section 11 requirements?	1	amendments and claims tracked in potential change log (provided post interview). However, amendments not detailed in accordance with understanding of services going forward	
36	Change Management	Executed Agreement A3277G, App 2 Section 3, Number 3	Was unused budget transferred appropriately between tasks?	0	According to the agreement, funding from completed tasks can be moved to future tasks; however, funding associated with incomplete (or future) tasks cannot be transferred to current tasks. Task 4 budget was transferred to task 3 (inter transfer 11/13/12), and from task 1 to task 3 (no documentation backup, and task 1 not complete). The contract, though NTE by task, was seemingly treated as T&M holistically.	NCR
37	Change Management	Const. Manual CM1088, Rev B, Section 11	What was the value of total amendments on the project? Were they excessive, and if so why?	2	on RMC's contract, change was valued at ~830k/54% but is not seen as excessive as change was expected based on nature of contract, unknown future funding, and extensions of time due to increased level of effort and delays associated with regulatory permitting	

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38	Document Management and Control	Executed Agreement A3277G, App 1; W42302revC	Was the Document Management practice approved?	0	see CWP LSC filing structure; no verification of formal approval. SCVWD structure missing several sub-class folders as required in QEMS. Unorganized and ineffectual project document control.	NCR
39	Document Management and Control	Executed Agreement A3277G, App 1 W42302revC	Have Project files been set up per the Project practice?	1	reviewed; RMC's files set up according to document management heirarchy found in CWP LSC Filing Structure; District files setup at a high level heirarchy. Heirarchies do not match (varying levels of detail and organization). District structure unorganized and missing several sub-class folders such as monthly reporting.	AFI
40	Document Management and Control	QEMS W42302revC	Was the project document control system implemented and used appropriately?	1	RMC project document control organized according to CWP LSC Filing Structure. SCVWD project document control system was used for a portion of the project, but not all files found in District system. Examples include copies of all amendments and backup, and monthly reports. Testimony revealed that the DA left and was not replaced. Further, construction for reaches 4-6b contained only 34 documents. Additionally, key direction was issued through email and should have been issued as a PDF (or similar) according to QEMS	NCR
41	Document Management and Control	Industry	Does the execution plan include the Client interface with the project document control Work Process?	0	could not verify	AFI
42	Document Management and Control	Executed Agreement A3277G, App 1	Was a distribution matrix developed, distributed, and utilized?	2	verified for BOD, and Design Submittals	
43	Document Management and Control	QEMS W42302revC	Was a central filing system established for both Design and Supplier/3rd party documentation?	0	District file structure unorganized, and ineffective	AFI
44	Document Management and Control	QEMS W42302revC Const. Manual CM10888, Rev B; Section 10	Have all files been prepared for archive or been archived?	0	could not verify final archive	NCR
45	Document Management and Control	QEMS W42302revC Const. Manual CM10888, Rev B; Section 10	Did the Project Manager submit required documentation for approval, closeout and release of final payment?	2	final invoice and associated documentation submitted; financial audit out of scope of performance audit	

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46	Document Management and Control	QEMS W73004, Appendix E (also Const Manual, Section 4)	Were 30%, 60%, 90%, and Final Design reviews conducted and documented?	2	intent met through 90, 95, 100%	
47	Project Quality	Industry	Were SCVWD expectations (or objectives) formally recorded?	1	objectives noted in project work plan, but some objectives articulated in interviews (securing federal funding and optimizing use of federal funding) not formally recorded; expectations not documented or	AFI
48	Project Quality	QEMS W75102rH	Was a Quality Plan developed?	2	part of execution plan	
49	Project Quality	Industry	Were there regular updates with SCVWD on satisfaction (of delivery, objectives, communication styles, etc.)?	NA	not a requirement	AFI
50	Project Quality	Industry	Were project Quality audits completed?	NA	no evidence of a project specific compliance audit	AFI
51	Field Services	Const. Manual CM1088, Rev B, Section 6, 7, 8, 11, 12, 13, & 14.	Was a SCVWD Construction Representative assigned to the project?	2		
52	Field Services	Industry	Was the Construction Representative included in the planning process?	1	CH present during planning process (verbal). Not verified through documented minutes.	
53	Field Services	Industry	Were Constructability Reviews held?	2	yes, through value engineering	
54	Field Services	Const. Manual CM1088, Rev B, Sec 4	Was a Construction Phase Work Plan prepared and approved?	2	yes, verified executed version	

02/26/2019